

**City Council/Redevelopment Agency  
City of Huntington Beach  
Adjourned Regular Meeting**

Monday, August 25, 2003  
4:00 P.M. – Council Chambers for  
Public Comments & Closed Session  
Reconvene at Approx. 4:15 p.m.  
for Open Session with Two Public  
Comments Sessions  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

A videotape of this meeting  
is on file in the Office of the City Clerk.

**Call to Order**

Mayor Connie Boardman called the adjourned regular meetings of the City Council and the Redevelopment Agency of the City of Huntington Beach to order at 4:00 p.m. in the Council Chambers.

**City Council/Redevelopment Agency Meeting Roll Call:**

Present: Coerper, Green, Boardman, Hardy (Sullivan and Houchen arrived during Closed Session)  
Absent: Cook

**Public Comments (Session 1 of 2) Regarding Closed Session Item**

**Chuck Scheid** informed that closed session relates to more than water fee, he stated that it also addresses the Public Hearing agenda item.

**Motion to Recess to Closed Session – Approved**

A motion was made by Coerper, second Green to recess to Closed Session on the following items. The motion carried by the following roll call vote:

AYES: Coerper, Green, Boardman, Hardy  
NOES: None  
ABSENT: Cook (Sullivan, Houchen absent at Roll Call; arrived during Closed Session)

**(City Council) Closed Session** – Pursuant to Government Code Section 54956.9(b)(3)(B). (Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.) The purpose of the Closed Session is to discuss the impact of the decision in ***City of Roseville v. Howard Jarvis Taxpayers Association*** (2002) 97 Cal. App. 4<sup>th</sup> 637 on the validity of the City's in-lieu water fee. (Municipal Code § 14.12.170) Subject: **Potential Litigation** (120.80)

**Reconvened City Council/Redevelopment Agency Meeting – Council Chambers****City Council/Redevelopment Agency Meeting Roll Call:**

Present: Sullivan, Coerper, Green, Boardman, Houchen, Hardy

Absent: Cook

Mayor Boardman announced that Councilmember Cook was in attendance at a League of Cities meeting and therefore could not be present.

**Public Comments (Session 2 of 2) Regarding Council Budget Meeting**

**Clem Dominguez** questioned why more deliberations could not be held prior to the issuance of bonds. Mr. Dominguez also stated concerns regarding Resolution No 2003-62, which had been adopted at the August 18, 2003 Council meeting.

**Ed Bush** stated disservice to the public and personal liability as reasons for his opposition to Resolution No.2003-62, levying a tax rate adopted at the August 18, 2003 Council meeting. Mr. Bush suggested renegotiating the retirement program; grandfathering, and eliminating the 75<sup>th</sup> percentile.

**Chuck Scheid** spoke regarding Mayor Pro Tem Green's agenda item, stating that he is in favor of reconsideration of Resolution No. 2003-62. Mr. Scheid stated that there was no contract between the City and employees in June 1978 and Proposition 13 was not in effect until September 30, 1978.

**City Clerk Announced Late Communications**

Pursuant to the Brown (Open Meetings) Act, City Clerk Connie Brockway announced the following Late Communications regarding the Council Budget Meeting. These communications were received in her office following distribution of the agenda packet:

Communication submitted by the Finance Board dated August 25, 2003 titled *Finance Board Recommendations User Fee Study and Fiscal Year 2003-2004 Budget* regarding the agenda item on the Finance Board presentation.

Communication submitted by the City Attorney dated August 25, 2003 titled *Late Communication Regarding Resolution No. 2003-64; Item No. 9 (Attachment No. 3) Related to Building Department Fees*. This communication deletes pages 1 and 2 of Exhibit A to Resolution No. 2003-64 as duplicative of pages 3 and 4 of the exhibit; and adds additional fees that were not included in the original exhibit.

Reprints due to printing error of two Late Communications titled *Department of Building & Safety 2003/04 Work Program* and *Department Public Works Engineering Division Work Program FY 03/04*.

**(City Council) Motion to Reconsider Adoption of Resolution No. 2003-62 FAILED by Tie Vote – Discussion Held Relative to Request by Mayor Pro Tem Cathy Green for Review of City Attorney’s Report Re: Adoption at the August 18, 2003 Council Meeting of Resolution No. 2003-62 – Levying a Tax Rate of 4.4% - Cost of Pre-1978 Benefits which is a Re-implementation of the Retirement Property Tax for FY 2003-04 ( . )**

The City Council considered a communication from Mayor Pro Tem Cathy Green transmitting the following **Statement of Issue**: I am placing the matter of the possibility that there may be a need to reconsider the adoption at the last Council meeting of Resolution No. 2003-62 – “*A Resolution of the City Council of the City of Huntington Beach Levying a Retirement Property Tax for Fiscal Year 2003-04 to pay for Pre-1978 Employee Retirement Benefits*” (to levy a tax rate at 4.4% that represents the cost of pre-1978 benefits).

Because copies of previously adopted Resolution Nos. 4300 (adopted 8/2/76), Resolution No. 4392 (adopted 12/20/76) and Resolution of Intention No. 4623 (adopted 6/5/78) were provided to the City Council during the City Council meeting, time was not provided to Council to fully review these previously adopted resolutions to ensure that the action being requested of the City Council to adopt Resolution No. 2003-62 was fully presented and clarified prior to a Council decision to approve.

The City Attorney will present a written report to the City Council and the public regarding the attached RCA’s (Requests for Council Action) dated June 5, 1978 relative to Resolution No. 4623 and the RCA dated June 12, 1978 relative to the Resolution of Intention. Resolution of Intention No. 4623 adopted on 6/5/78 was effective on June 5, 1978. The corresponding ordinance, which this Resolution of Intention announced, was adopted at a later date. I believe this needs to be clarified.

The communication further states: I believe the City Attorney’s written report will provide an explanation of this issue and will result in an understanding of this matter for the public and Council.

Councilmember Sullivan voiced his disagreement with the City Attorney’s interpretation. He spoke regarding the process, stating that when the ordinance was signed and sent to the California Public Employees’ Retirement System (PERS) is when he believes the contract was in effect.

Councilmember Sullivan requested to see the PERS report so that he can make an informed decision regarding cost issues.

City Treasurer Shari Freidenrich informed Council regarding the process of getting information from the County on the property tax bill.

Assistant City Administrator William Workman responded to Councilmember Sullivan’s request, stating that the written documents from the 1999 actuarial are in the August 18, 2003 agenda packet.

Administrative Director Clay Martin announced that the cost is \$25,000. Mr. Martin spoke regarding the credentials of the actuarial.

Councilmember Sullivan expressed his concern that the material is not adequate.

The original recommended action in Mayor Pro Tem Green's agenda item presented two options: the first was to concur with the adoption of Resolution No. 2003-62 adopted on August 18, 2003 levying a tax rate at 4.4% that represents the cost of pre-1978 benefits.

A motion was made by Green, second Sullivan on the second option to reconsider adoption of Resolution No. 2003-62. The motion to reconsider **failed** by tie roll call vote as follows:

AYES: Sullivan, Coerper, Green  
NOES: Boardman, Houchen, Hardy  
ABSENT: Cook

**(City Council/Redevelopment Agency) Presentation Made by the Finance Board Re: Proposed 2003-2004 and 2004-2005 Budget Recommendations ( . )**

Finance Board Chair Charles Falzon presented the PowerPoint report titled *Finance Board Recommendations – User Fee Study & FY 03/04 Budget – August 25, 2003 – Charles Falzon, Chairman*, which had been announced earlier as a Late Communication by City Clerk Connie Brockway.

The City Council considered the communication submitted by the Finance Board.

Councilmember Coerper inquired regarding Slide No. 4 of the PowerPoint, asking why the Finance Board did not receive staff's report. City Administrator Silver responded.

Administrative Services Director Martin reported regarding costs charged for Information Systems Help-Line calls.

Councilmember Sullivan requested a report on enterprise funds.

Councilmember Coerper asked Police Chief Kenneth Small regarding Slide No. 5, as to whether the Police Department leaves notification to apprise the property owner of false alarms.

Police Chief Small responded that notification is in place, but it will be revisited.

Further discussion was held going back to Slide No. 4 relative to Council requesting actual, and not projected costs.

Director Martin responded that staff will study and bring to Council a report much earlier in the Fiscal Year to bring data closer; it will be looked at for a possible earlier determination of cost recovery amounts.

**(City Council/Redevelopment Agency) Summary Overview Presented by the City Administrator Re: Proposed 2003-2004/ 2004-2005 City Budget and Work Programs Including Responses to Mayor Boardman's Inquiries from August 11, 2003 Meeting ( . )**

City Administrator Ray Silver presented the proposed 2003-2004/2004-2005 City Budget and Work Programs as follows:

**a. Summary Overview of the Budget**

City Administrator Silver presented the PowerPoint Presentation titled *Fiscal Year 2003/2004 Budget Presentation*, which was included in the Agenda Packet.

**b. Responses to the City Council Budget Questions of August 11, 2003**

The following communications included in the agenda packet were reviewed:

- 1.) Memorandum titled *Table of Organization*;
- 2.) Memorandum titled *Impact of the Layoff Process*;
- 3.) Memorandum titled *Vacant Positions*; and
- 4.) Memo in response to Mayor Boardman's questions titled *All Funds/General Fund Revenue Differences*.

Councilmember Sullivan inquired regarding the item on vacant positions. Administrative Services Director Clay Martin reported all are unfilled.

**(City Council/Redevelopment Agency) 1.) Reviewed and Approved the Development Services Team Major Projects List as Amended to Return with Information on #19, Pearce Street Subdivision; and 2.) Reviewed the Development Services Work Programs for Fiscal Year 2003-2004 ( . )**

City Administrator Ray Silver presented the following two communications included in the agenda packet: 1.) the *Development Services Team Major Projects List* for Council approval and 2.) the Development Services Work Programs for Fiscal Year 2003-2004 for Council review.

Councilmember Sullivan requested review of project Priority A to C definitions of the Development Services Team Major Projects List, and was referred to the Legend on the last page of said communication.

Mayor Pro Tem Green inquired regarding Item #35, Cove & Holmby Park Soil Remediation on the Major Projects List, to which Planning Director Howard Zelefsky responded.

Director Zelefsky also reported on Major Project items #18, Park Street Marina and commented on the progress on #11, Huntington Center Mall Renovation.

Staff stated that the Major Projects List is prioritized consistent with the budget.

Mayor Boardman inquired regarding the Community Services Work Plan relative to funding for the Senior Multi-Service Center, to which Community Services Director Jim Engle responded that it is a Priority C item.

Mayor Boardman expressed pleasure at seeing one million dollars in sidewalk repair and Community Development Block Grant (CDBG) funding of curbs and gutters.

A motion was made by consensus to approve the Development Services Team Major Projects List **as amended**, with direction for staff to provide further information on Item #19, Pearce Street Subdivision. The motion carried unanimously with all members present, Cook absent.

**(City Council/Redevelopment Agency) Public Hearing Opened and Continued Open to September 2, 2003 to Consider Revisions to the City's Comprehensive Fee Schedule – Straw Vote Motions Taken to Adopt (1.) Resolution No. 2003-63 (Repealing Res. No. 5159); (2.) Resolution No. 2003-64 (Repealing Res. No. 2002-94); and (3.) Resolution No. 2003-65 (Re: Facility Rentals) - Directed Staff to Return to Council September 8, 2003 RE: Enterprise Funds ( . )**

Mayor Boardman announced that this was the time scheduled for a public hearing for the purpose of considering revisions to the City Comprehensive Fee Schedule as set forth in City Council Resolution No. 5159 adopted on October 4, 1982, and amendments thereto.

The revisions to be considered are for cost recovery purposes and charges for services, and fall under the responsibility of the following City Departments.

- Building and Safety Department
- Planning Department
- City Clerk
- City Treasurer
- Economic Development Department
- Fire Department
- Library Department
- Police Department
- Public Works Department
- Community Services Department
- Administration

Legal notice as provided to the City Clerk's Office by staff had been published and posted.

Two Communications included in the Agenda Packet were presented for Council review: 9(a.) Communication from the Administrative Services Director titled *Benchmark Fees and Charges*; and 9(b.) Communication from the Community Services Director titled *Responses to Council's Questions on Fees*.

The City Clerk restated for the record the Late Communications announced earlier submitted by the City Attorney dated August 25, 2003 titled *Late Communication Regarding Resolution No. 2003-64; Item No. 9 (Attachment No. 3) Related to Building Department Fees*. This communication deletes pages 1 and 2 of Exhibit A to Resolution No. 2003-64 as duplicative of pages 3 and 4 of the exhibit; and adds additional fees that were not included in the original exhibit.

Mayor Boardman declared the public hearing open.

**Chuck Scheid** spoke regarding the Comprehensive Fee Schedule. He stated that staff is recommending full cost allocation, which he believes will hugely impact citizens. He informed Council that the agenda title should also address this full cost allocation proposal. Mr. Scheid stated that he believes the fees are unreasonable and in violation of Proposition 218.

**Carol Jacobs**, Senior Manager of CBIZ (Conrad & Associates) announced that the Comprehensive Fee Study was completed in accordance with the Federal regulations of the Office of Management and Budget. She stated that there is no one correct way, that there are a number of methods, which can be utilized to accomplish fee allocation. Ms. Jacobs informed

Council that the consulting company will continue to refine plans, but it is fairly and equitably allocated with regard to overhead costs and fines referred to by the previous speaker, Mr. Scheid.

**Marie St. Germaine** addressed comments from Council meeting of August 18, 2003, stating that the issue of bankruptcy should not have been discussed. She stated that the proposed bond issuance will cause the city to go deeper into debt. Ms. St. Germaine expressed her confidence in Councilmember Sullivan's financial reasonings.

Councilmember Coerper stated that he would like current fees and proposed fees and fully burdened costs to be reflected on the same chart.

City Treasurer Freidenrich reported on fees reduced to less than fully burdened cost and the rounding-down process.

City Attorney Jennifer McGrath spoke regarding the justification of City Clerk's Office fees due to State Mandates for imposing fees. The City Clerk commented.

Mayor addressed the speaker, Ms. St. Germaine that refunding is not part of the public hearing item.

As there were no persons present to speak further on the matter, and there were no further protests filed, either written or oral, the Mayor declared the public hearing closed. (Later in the meeting a vote was taken to continue public hearing **open to September 2, 2003.**)

**Councilmember Houchen left the meeting at 6:15 p.m.**

Council concurred unanimously to make straw vote motions for the adoption of the following resolutions to return to full Council at the September 2, 2003 meeting:

A **straw** vote was made to adopt **Resolution No. 2003-63** – *"A Resolution of the City Council of the City of Huntington Beach Establishing a Citywide User Fee Schedule and Repealing Resolution No. 5159 entitled, 'A Resolution of the City Council of the City of Huntington Beach Establishing a City Fee Schedule' and Certain Supplemental Amendments Thereto."* The **straw motion carried** by the following roll call vote:

AYES: Coerper, Green, Boardman, Hardy  
NOES: None  
ABSENT: Cook, Houchen  
ABSTAIN: Sullivan

A **straw** vote was made to adopt **Resolution No. 2003-64** – *"A Resolution of the City Council of the City of Huntington Beach Establishing a Citywide User Fee Schedule and Repealing Resolution No. 2002-94." (Developer Fees)* The **straw motion carried** by the following roll call vote:

AYES: Coerper, Boardman, Hardy  
NOES: None  
ABSENT: Cook, Houchen  
ABSTAIN: Green, Sullivan

A **straw** vote was made to adopt **Resolution No. 2003-65** – “A Resolution of the City Council of the City of Huntington Beach Establishing a Citywide User Schedule for Charges for Facility Rentals and Recreation Services.” The **straw motion carried** by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Hardy

NOES: None

ABSENT: Cook, Houchen

A motion was made by Boardman, second Green to continue and not to close the public hearing and continue **open** to **September 2, 2003** and for staff to return to Council at the September 8, 2003 Budget Meeting relative to the Enterprise Funds. The motion carried by the following roll call vote:

AYES: Sullivan, Coerper, Green, Boardman, Hardy

NOES: None

ABSENT: Cook, Houchen

#### **Adjournment – City Council/Redevelopment Agency**

Mayor Boardman adjourned the adjourned regular meetings of the City Council and the Redevelopment Agency of the City of Huntington Beach at 6:00 p.m. to Tuesday, September 2, 2003, at 5:00 p.m., in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.

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City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Clerk of the Redevelopment Agency of the City of Huntington Beach, California

ATTEST:

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City Clerk-Clerk

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Mayor-Chairman